

SOAH DOCKET NO. 582-08-1804
TCEQ DOCKET NO. 2007-1302-MSW

APPLICATION OF IESI TX LANDFILL § BEFORE THE STATE OFFICE
 §
L.P. FOR A NEW TYPE 1 MSW PERMIT § OF
 §
PROPOSED PERMIT NO. 2332 § ADMINISTRATIVE HEARINGS

REPLY BRIEF

OF

THE CITY OF JACKSBORO

CHIEF CLERKS OFFICE

2009 JUN 11 AM 8:56

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

JUNE 11, 2009

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**THE CITY OF JACKSBORO'S REPLY TO TWO BUSH COMMUNITY ACTION
GROUP AND THE EXECUTIVE DIRECTOR'S EXCEPTIONS
TO THE PROPOSAL FOR DECISION**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

COMES NOW, the City of Jacksboro ("Jacksboro" or the "City") and presents this its
*Reply to Two Bush Community Action Group and the Executive Director's Exceptions to the
Proposal for Decision* in the above-referenced proceeding.

I. INTRODUCTION

On May 5, 2009, the Administrative Law Judge ("ALJ") issued her Proposal for
Decision¹ ("PFD") and Proposed Order² based on evidence presented during the Hearing on the
Merits in this proceeding and on the legal arguments of the parties. The PFD stated the ALJ's
conclusion that the Applicant, IESI TX Landfill, L.P. ("IESI" or "Applicant"), failed to meet its
burden of proof on issues referred by the Commissioners related to the above-referenced
application. Specifically, the ALJ found that: (1) Applicant did not perform an adequate search

¹ Proposal for Decision, *Application of IESI TX Landfill, L.P. for a new Type I MSW Permit, Proposed Permit No. 2332*, SOAH Docket No. 582-08-1804, TCEQ Docket No. 2007-1302-MSW (May 5, 2009) [hereinafter PFD].

² Proposed Order, *Application of IESI TX Landfill, L.P. for a new Type I MSW Permit, Proposed Permit No. 2332*, SOAH Docket No. 582-08-1804, TCEQ Docket No. 2007-1302-MSW (May 5, 2009) [hereinafter Proposed Order].

for water wells and springs;³ (2) Applicant did not list the aquifer(s) for all water wells within one mile of the site;⁴ (3) Applicant did not address the possible impact of dewatering on area wells and springs;⁵ and (4) Applicant did not properly describe the regional aquifer(s) in the landfill's vicinity.⁶

Neither Two Bush Community Action Group ("TBCAG") nor the Executive Director's ("ED") Exceptions to the Proposal for Decision accurately cites the regulations governing this municipal solid waste application. Regardless, in its *Replies to Exceptions*, the City will address each of TBCAG's Exceptions under the same headings utilized by TBCAG.

II. GROUNDWATER WELLS AND SPRINGS

The ALJ and TBCAG continue to assert that the Applicant should have utilized a methodology for locating wells and springs that is outside the scope of Commission regulations and regularly accepted practice. As shown in Closing Arguments, Replies to Closing Arguments, and Exceptions to the PFD, the Applicant identified and evaluated all water wells within a one mile radius of the proposed landfill site in accordance with applicable TCEQ rules. IESI's expert, Mr. Michael Snyder, relied upon information obtained in the standard practice of completing a MSW application. The rules require that a water well search be done and the rules provide for that search to be conducted by relying on public records. Nothing in the rules specifies that an applicant is to search out surrounding landowners, whether resident or non-resident, to determine if they have a well on their property. TCEQ has never required an

³ PFD at 11, *supra* note 1.

⁴ *Id.*

⁵ *Id.* at 14.

⁶ *Id.* at 19.

applicant to take this extraordinary measure.⁷ If an applicant is to consider the groundwater protection of a well, it needs to be of a well that has been drilled and recorded properly in the records of the Texas Water Development Board. Additionally, Dr. Lauren Ross, TBCAG's expert witness states that even in her search she noted some of the additional wells she mentioned were recorded after the application was deemed administratively complete.⁸ Nothing in the rules requires an applicant to continue checking the Texas Water Development Board records after the application is accepted by the TCEQ to ensure that there are no newly installed wells that need to be included in the application. Again, TBCAG attempts to provide its own regulatory requirements in lieu of those actually adopted by the TCEQ. The Applicant utilized the same standard of professional practice and care as other applicants in the past have used in making this determination. The water well search methodology employed by the Applicant has been approved by the Commission in other recent landfill permit proceedings.⁹ The well search requirements proposed in the PFD, and reiterated by TBCAG would result in a significant expansion of the explicit language of the rules and would be a drastic departure from established Commission precedent. The type of regulatory expansion proposed by the ALJ, and reiterated by TBCAG, is simply not appropriate in a contested case hearing.

TBCAG continues to argue that the Applicant inadequately characterized springs in the area and failed to recognize the existence of the Pennsylvanian formation, as well as its importance as a possible source of groundwater. That is simply not true, nor is that assertion

⁷ See Tr., Vol. 7, at 26, l. 15-20.

⁸ See *id.* Vol. 6, at 217, l. 9-12.

⁹ See MSW Permit No. 576B, issued Dec. 12, 2002, MSW Permit No. 1428A, issued Aug. 14, 2003, MSW Permit No. 2290, issued Oct. 31, 2003, MSW Permit No. 1454B, issued Oct. 20, 2004, and MSW Permit No. 47A, issued Aug. 17, 2007. All of the referenced permits authorize type I MSW landfills that have utilized the same water well search methodology as Applicant has in the instant Application.

supported by any evidence in the record. In fact, the exact opposite is true. A search for springs was conducted within a one mile radius of the proposed site.¹⁰ No springs were located within that one mile radius and, thus, the Application contains no reference to springs within that area.¹¹ The Applicant reviewed and relied on the *Springs of Texas* to further substantiate that there are no active springs in this area of Jack County.¹² No reliable testimony was offered by TBCAG to controvert the factual data contained in the Application.

TBCAG's argument that the Applicant failed to recognize the Pennsylvanian Canyon Group as an aquifer, even though it is allegedly a significant source of ground water for surrounding land owners, is simply incorrect. Dr. Ross' own admission that the definition of aquifer is "a water bearing unit in the ground that produces water in quantities that—and a quality that is usable for some human purpose."¹³ In TBCAG's Exhibit 8-B, *Nordstrom Report 308*, the Report states that the Pennsylvanian aquifers, while important to a small number of people, are not considered regional aquifers due to having the characteristics of water that is not suitable for domestic use or even for extensive irrigation practices.¹⁴ In reviewing this document, that Dr. Ross relied upon, as the basis of her opinion it is easy to determine that even *Nordstrom Report 308* does not characterize the Pennsylvanian as an aquifer. Thus, this begs the question: why should IESI be required to analyze the Pennsylvanian as an aquifer when "relevant published sources" do not? The question is particularly important when those same sources are relied upon by TBCAG's witnesses to incorrectly state contradictory information.

¹⁰ See App Ex. 7 at 13, l. 12-13 (Prefiled Testimony of Mr. Michael Snyder, P.G.).

¹¹ See *id.*, l. 13-14.

¹² See *id.*, l. 15-17.

¹³ Tr., Vol. 6, at 96, l. 21 to 97, l. 1.

¹⁴ See TBCAG Ex. 8B at iii, 65, and 67.

The ALJ's "confusion" on this issue seems to surround the characterization of a water bearing unit as "significant" in the context of TCEQ rules. Clearly, TCEQ rules require that aquifers be analyzed on a regional basis. When this is done, it is clear that there are no regional aquifers under the landfill site. The legally unsupportable insistence by TBCAG that any water bearing formation underlie the landfill site is "significant" to the property owners near the site and is, therefore, a regional aquifer is simply contrary to TCEQ rules and previous landfill permit application approvals. While a property owner may withdraw water, of questionable quantity and quality, from a formation under a landfill, such withdrawal is not "significant" when analyzing regional aquifers. The Commission specifically limits the analysis to regional aquifers to ensure widespread groundwater protection.

III. WATER RECHARGE

The City incorporates its argument in *City of Jacksboro's Exceptions to Proposal For Decision*, filed on June 1, 2009. No new evidence or arguments have been presented in any Parties' Exceptions that would refute the City's argument. Therefore, the City will not burden the Commissioners by restating the same argument. The Rule of Capture controls this situation.

IV. GEOLOGIC AND HYDROGEOLOGIC INFORMATION

A. Geology Report

The City incorporates its argument in *City of Jacksboro's Exceptions to Proposal For Decision*, filed on June 1, 2009. No new evidence or arguments have been presented in any Parties' Exceptions that would refute the City's previous argument. Therefore, the City will not burden the Commissioners by restating the same argument.

B. Subsurface Investigation Report

TBCAG disagrees with the ALJ that the Applicant provided sufficient evidence to support its Subsurface Investigation Report. In accordance with 30 TEX. ADMIN. CODE § 330.56(d)(5), the Application contains a geologic cross-section location map, geologic cross-sections, and geologic contour maps that depict subsurface geologic conditions beneath the Landfill site.¹⁵ In spite of a clear evidentiary record to the contrary, TBCAG continues to characterize the "wash borings" at the proposed landfill site as the only methodology used by the Applicant to evaluate groundwater flow. IESI did not solely, or even primarily, rely upon "wash borings." Wash borings were only utilized for a minor part of the site exploration. The majority of the information that was utilized came from the drilling logs and core samples. IESI included such evidence in the Application. Both Mr. Snyder and Mr. Gregg Adams testified that such information was utilized. The failure of TBCAG to properly evaluate the evidence leads to its erroneous conclusion that Stratum III cannot serve as an aquiclude. The uncontroverted evidence is that Stratum III underlies the entirety of the proposed landfill site. Stratum III is of sufficient thickness and of low enough permeability (10^{-8} cm/sec) to serve as the aquiclude beneath the uppermost aquifer, Stratum II at the site. As Mr. Snyder testified, he even confirmed on oilfield logs provided to him by a protestant, Dr. Henderson, that Stratum III extends off the site in both directions.¹⁶ IESI performed an adequate number of tests to characterize the materials and Mr. Adams testified that the compressive strength data was not the only data that was used to assess the strength parameters.¹⁷ The assumed strength parameters were based on not only compressive strength test results, but also the results of the classification tests, dry unit weight tests, moisture content tests, and split spoon sample blow counts.¹⁸ TBCAG introduced

¹⁵ See Applicant Ex. 7 at 46, l. 6-12 (Prefiled Testimony of Mr. Michael Snyder, P.G.).

¹⁶ Tr., Vol. 8, at 148, l. 21 through 149, l. 9.

¹⁷ Tr., Vol. 1, at 164.

¹⁸ *Id.* at 161-162.

no credible controverting evidence to refute the slope stability analyses prepared by IESI. TBCAG's arguments should be disregarded.

TBCAG asserts that the destruction of the field notes and omission of any notations on the boring logs constitutes a destruction of evidence and, therefore, the evidence should be presumed to be unfavorable to IESI. This argument is simply absurd. TBCAG cites to case law that it then distorts to bolster its argument that destruction of the field notes constitutes destruction of evidence not allowed by courts. In fact, TBCAG could not be farther from the truth in its statement. In *California v. Trombetta*, 467 U.S. 479, 104 S. Ct. 2528 (U.S. 1984), the U.S. Supreme Court upheld the decision to destroy breath samples because the purpose of obtaining those samples was for the limited purpose of providing raw data to the Intoxilyzer. The Supreme Court stated "the evidence to be presented at trial was not the breath itself but rather the Intoxilyzer results obtained from the breath samples. The authorities did not destroy the breath samples in a calculated effort to circumvent the due process of Brady v. Maryland..."¹⁹ In this case IESI simply took the core samples and made the field notes in order to input the information into the boring logs as required by regulation to develop the geological characterization of the site. Such is standard industry practice. Further, an objection at the time of the introduction of an opinion or evidence is the only proper time in which to make a *Daubert* objection.²⁰ The fact that TBCAG did not make a timely objection renders said objection waived. TBCAG's absurd argument should be rejected under applicable legal principles.

V. GROUNDWATER PROTECTION

On this issue TBCAG continues to rely on its mischaracterization of the Pennsylvanian formation as an aquifer. 30 TEX. ADMIN. CODE § 330.403 lists the requirements for landfill

¹⁹ See *California v. Trombetta*, 467 U.S. 479, 104 S. Ct. 2528 (U.S. 1984).

²⁰ See *Matter of Bates*, 555 S.W.2d 420 (Tex. 1977); see also *Baylor U. Med. Cent. V. Travelers Ins. Co.*, 587 S.W. 2d 501 (Tex.Civ.App. Dallas 1979, writ ref'd n.r.e).

groundwater monitoring systems. Specifically, the current version of rules require monitoring wells to be spaced at no more than 600 feet apart. IESI has proposed a groundwater monitoring system that complies with this requirement even though it is more restrictive than the old rule.²¹ IESI conclusively proved that its Site Development Plan adequately characterized groundwater at the site and protects water quality. Such proof is contained in Applicant Ex. 100, Vol. 2, Part III, Attachment 5 of the Application, which was sponsored by Mr. Snyder, a registered geoscientist. In accordance with 30 TEX. ADMIN. CODE § 330.242, IESI's Facility will have a permanent groundwater monitoring well system.²² Wells will be drilled by a method that will not introduce contaminants into the borehole or casing.²³ A total of eleven (11) groundwater monitoring wells are proposed for the site.²⁴ Nine of the wells are downgradient, point-of-compliance wells, and two of the wells are upgradient wells.²⁵ The downgradient wells are spaced approximately 600 feet from each other.²⁶ The location of these wells can be found at Applicant Ex. 100, Vol. 2, 5A.1 and 5A.2. A Groundwater Sampling and Analysis Plan ("GWSAP") for the site has been developed and can be found at Applicant Ex. 100, Vol. 3, Attachment 11. The proposed network of monitoring wells will detect the presence of a release from the landfill that could reach the uppermost aquifer if there was a breach of the liner and the clays of Stratum I.²⁷ Sampling and analytical testing for the proposed monitoring system will be performed in accordance with the regulations outlined in 30

²¹ See Applicant Ex. 100, Vol. 2, Part III, Attachment 5, at 5A.1 and 5A.2.

²² See *id.* at 5-4.

²³ See *id.*

²⁴ See *id.*

²⁵ See Applicant Ex. 9 at 15, I. 11-14 (Prefiled Testimony of Dr. Charles W. Kreidler, P.E.).

²⁶ See *id.*, I. 15-16; see also Tr., Vol. 2, at 82, I. 8-10.

²⁷ See Applicant Ex. 9 at 15, I. 17-19 (Prefiled Testimony of Dr. Charles W. Kreidler, P.E.).

TEX. ADMIN. CODE § 330.29.²⁸ IESI's GWSAP has been prepared to meet or exceed the requirements of 30 TEX. ADMIN. CODE §§ 330.230-234 and 330.241 and will be protective of human health and the environment.²⁹ No controverting evidence was presented that would refute the fact that the Applicant has addressed all regulatory issues.

TBCAG relies on its unsupportable theories to allege that the proposed groundwater monitoring system is inadequate. As demonstrated through the evidence presented and the testimony offered at the Hearing on the Merits, groundwater migration simply does not flow in the directions that TBCAG claims. TBCAG expects everyone to take this leap of faith regarding its theory about groundwater migration in order to support its conclusion that the groundwater monitoring system is inadequate.

TBCAG would also have one believe that the Applicant did not perform a specific site investigation in order to develop the Groundwater Monitoring Plan. This is simply not true. IESI has demonstrated that it utilized site specific information to demonstrate that groundwater travels in a northeasterly direction under the site. In utilizing site specific data, IESI designed a conservative groundwater monitoring system. Mr. Snyder explained that in designing the system he utilized:

"aquifer thickness, groundwater flow rates, groundwater flow direction (including the evaluation of seasonal and temporal fluctuations in flow), the effect of site construction and operations on groundwater flow directions and rates, as well as the hydrogeologic evaluation of the uppermost aquifer and materials of the lower confining unit."³⁰

²⁸ See Applicant Ex. 100, Vol. 2, Part III, Attachment 5, at 5-5.

²⁹ See Applicant Ex. 100, Vol. 3, Part III, Attachment 11, at 11-1; see also Applicant Ex. 9 at 15, l. 19-20 (Profiled Testimony of Dr. Charles W. Kreidler, P.E.).

³⁰ Tr., Vol. 1, at 42.

In performing his evaluation, and in the design of the groundwater monitoring system, Mr. Snyder identified the downgradient groundwater pathways, and designed the groundwater monitoring system to include eleven groundwater monitoring wells. Nine wells are designed to be downgradient of the site and two are upgradient wells for background water quality monitoring.³¹ Based on site specific information, IESI could have designed a system with fewer wells. However, IESI chose to take a more conservative approach and space the downgradient wells 600 feet apart.³²

VI. SURFACE WATER PROTECTION

TBCAG continues to make its same baseless argument that IESI did not utilize the proper methodology to define pre- and post- development drainage patterns. This allegation is supported only by TBCAG's witness, Mr. Larry Dunbar, and not by any regulation or authority. Mr. Dunbar's theory has been repeatedly rejected by the TCEQ. In order to determine the adequacy of surface water controls an applicant must first determine what the pre-development drainage patterns are and compare those with post-development drainage patterns. In an attempt to support Mr. Dunbar's theory, TBCAG distorts the evidence and misapplies TCEQ rules. It is important to remember that TCEQ rules do not allow use of the Rational Method in this type of situation. IESI utilized accepted TCEQ and industry standard methodology to design its surface water drainage and storm water containment systems. The TCEQ Guidance Document, RG-417, relevant to this proceeding provides that the Rational Method can be used for small drainage areas of less than 200 acres, but the HEC-HMS model is needed for areas larger than 200 acres.³³

³¹ *Id.*, at 41.

³² Tr., Vol. 2, at 83, l. 17 through 84, l. 1.

³³ See APP Ex. 4 at 10.

TBCAG believes that even though the proposed landfill encompasses more than 200 acres, IESI should have utilized the Rational Method to determine pre-development and post-development drainage conditions. Mr. Dunbar's theory has even been rejected by SOAH.³⁴ There is a good reason for the repeated rejection of Mr. Dunbar's theory. The Rational Method is not a valid model to compare pre- and post-development conditions because post-development conditions are based on factors that cannot be input into the Rational Method. Specifically, the Rational Method cannot be utilized for post-development conditions since it cannot take into account the effect detention ponds will have on natural drainage patterns.³⁵ Unfortunately, Mr. Dunbar still does not seem to understand this critical distinction.

While the Rational Method is still found in TCEQ rules, it has limited application in the landfill permitting process, as frequently noted by TCEQ staff. The TCEQ has consistently required that the entirety of a landfill facility that is greater than 200 acres shall utilize a HEC-1, or HEC-2, or other method approved by the executive director.³⁶ The Rational Method is simply a holdover from the days of much smaller landfills. IESI utilized the TCEQ approved HEC-HMS model because the drainage areas that were evaluated are greater than 200 acres.³⁷ It is undisputed in the record that the drainage area evaluated in relation to the proposed landfill site is close to 1,000 acres.³⁸

³⁴ See APP Ex. 24 at 41-42. The ALJs in said instant agree that when a watershed area is greater than 200 acres "the use of the Rational Method in drainage area hydrologic analyses is inappropriate and inconsistent with TCEQ requirements." *Id.* at 42.

³⁵ Tr., Vol. I, at 29, l. 18-22.

³⁶ 30 TEX. ADMIN. CODE § 330.55(b)(5)(B).

³⁷ Tr., Vol. I, at 35, l. 4-8.

³⁸ *Id.* at 41, l. 16-18.

TBCAG attempts to twist the record and cast dispersion on the Applicant because the Applicant's expert, Mr. Kenneth Welch, chose to also run both the Rational Method and the HEC-HMS models for comparison purposes. This appears to be part of a continued attempt by TBCAG to distort the evidentiary record and cast dispersions on the Applicant.

VII. GEOTECHNICAL EVALUATION

TBCAG alleges that the slope stability analysis provided by the Applicant does not demonstrate that the landfill will not be subject to slope failures because the analysis supposedly does not include an evaluation of intermediate slopes. TBCAG states that the Applicant did not evaluate the potential for a block failure of the intermediate slopes.³⁹ What TBCAG does not state is that IESI did in fact perform an overall evaluation for slope failure as part of the evaluation of the final waste slope.⁴⁰ IESI also examined the potential for block failure along the plane of the geomembrane liner.⁴¹ Mr. Adams provided clear testimony that there was no reason to evaluate the potential for block failure of the intermediate slopes as there was no situation in existence that could make this a critical factor. Mr. Adams also testified that the bottom of the landfill actually has a two percent cross slope and transition slopes between sectors that will provide a buttressing effect for the intermediate waste slopes.⁴² In addition, IESI utilized more stringent strength values in determining the slope stability than TBCAG would like to admit.⁴³

³⁹ TBCAG's Exceptions at 15.

⁴⁰ Tr. Vol. 1 at 172, L. 5-10.

⁴¹ *Id.* at 173, L. 5-7.

⁴² Tr. Vol. 9, at L. 10-16.

⁴³ *Id.* at 165, L. 6-10.

VIII. VECTORS AND SCAVENGING

TBCAG again attempts to make scavenging an issue at the proposed landfill site. TBCAG asserts that the ALJ provided an incorrect analysis of the term "scavenger" and attaches a Final Order from a previous TCEQ proceeding. What TBCAG fails to do is recognize all evidence presented at the Hearing on the Merits that shows that feral hogs will, in fact, not be a problem at the proposed landfill site and that Applicant has developed a Site Operating Plan that addresses vectors and scavenging in compliance with TCEQ regulations. TBCAG's own witness failed to provide any evidence demonstrating there is, in fact, a feral hog problem at the proposed landfill site. During cross examination of Mr. Byron Sewell, he testified that he has never seen a hog enter a landfill.⁴⁴ During cross examination of Mr. Kim Rife, TBCAG's hog expert, Mr. Rife stated that he "has never been called to trap hogs at a landfill."⁴⁵ Mr. Rife further testified that he has no doubt he could take care of any hog problem that could occur on a 200 or even a 500-acre piece of property.⁴⁶ Feral hogs are a statewide issue. As Mr. Rife indicates, it is a simple issue to address if a feral hog problem arises at a landfill.

In the Application IESI states "scavenging will be prohibited at all times".⁴⁷ IESI also provides that landfill personnel will conduct daily inspections as required by Section 8.24 of the Site Operating Plan to observe waste disposal operations and to remove areas that may be conducive to insects and rodents.⁴⁸ If the daily site operations are not able to control vectors, a

⁴⁴ Tr., Vol. 4, at 28, l. 18.

⁴⁵ *Id.* at 83, l. 2-3.

⁴⁶ *Id.* at 84, l. 19-23.

⁴⁷ See Applicant Ex. 100, Volume 3, Part IV, at IV-37.

⁴⁸ See *id.* at IV-36.

licensed professional will apply pesticides to ensure that proper chemicals are used and that they are properly applied.⁴⁹ This is exactly what is required by TCEQ regulations.

IX. ED RECOMMENDS REMAND TO SOAH FOR HEARING TO DETERMINE IF ADDITIONAL MONITORING WELLS ARE NEEDED

Despite the ALJ's clear finding of fact that the uppermost aquifer underlying the proposed landfill site is in Stratum II,⁵⁰ the City understands that IESI is amenable to placing additional groundwater monitoring wells screened in Stratum IA sands or Stratum I clay where Stratum I sands do not exist. The City does not believe such is necessary, but will support IESI if it chooses to add more wells. As the groundwater monitoring system in Stratum II has been determined to be sufficient by both the ALJ and the ED,⁵¹ placing additional shallow wells around the landfill will fully address any possible concern. No further evidence is necessary if the Commission wishes to accept the additional wells as a special condition to the permit. The City does not support an additional hearing as nothing can be gained by such delay.

X. CONCLUSION AND PRAYER

The evidentiary record in this proceeding clearly demonstrates that IESI has satisfied all statutory and regulatory requirements for a municipal solid waste permit to be granted for this site. In the alternative, the City supports the addition of the groundwater monitoring wells mentioned in Section IX above.

The City of Jacksboro respectfully requests that the Commissioners confirm through appropriate Findings of Fact and Conclusions of Law that IESI's Application meets or exceeds

⁴⁹ See *id.* at IV-36-37.

⁵⁰ PFD at 8, FOF No. 67, *supra* note 1.

⁵¹ *Id.* at 9, FOF 77-78; see also ED-4 at 7, I. 7-15 (Prefiled Testimony of Mr. Gale Baker, P.G.).

all statutory and regulatory requirements and issue the requested municipal solid waste permit to IESI.

Respectfully submitted,

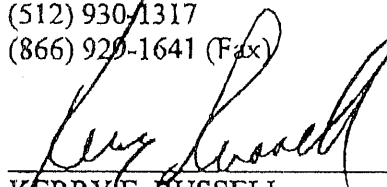
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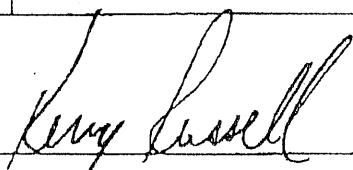
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**ATTORNEYS FOR THE CITY OF
JACKSBORO, TEXAS**

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2009, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel or party representatives of record:

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Pages: 17 (Including Cover Sheet)Re: *Application of IESI to Obtain Municipal Solid Waster Permit No. 2332*
SOAH Docket No. 582-08-1804, TCEQ Docket No. 2007-1302-MSW

Comments: City of Jacksboro's Replies to Exceptions to PFD - A Hard Copy to Follow by Mail

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